

REMARKS

By the present amendment, Applicant has amended Claims 1, and 15-17, cancelled Claims 2, 3, 9, 10, 12 and 18-20, and added Claims 21-28. Claims 1, 4-8, 11, 13-17, and 21-28 remain pending in the present application. Claims 1, 15, and 21 are independent claims.

The Examiner rejected Claims 1, 4-9, 11 and 13-17 under 35 U.S.C. 102(b), as being anticipated by Bemis et al. The Examiner rejected Claims 2, 3, 9, 10, 12, and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Bemis et al. in view of Kuhns.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The applied prior art reference to Bemis et al. discloses a unitary rain gutter assembly including an elongated trough-like rain gutter having a rear wall, a trough and a leaf guard integrally connected by a pair of living hinges, grommets adapted to house a fastener for supporting the rain gutter, and a connector for sealingly connecting a pair of closely-spaced, aligned rain gutters. The hinged rain gutter structure of Bemis et al. requires the leaf guard to be hingedly and integrally attached to the rain gutter. The structure of Bemis et al. precludes any usage other than the completed hinged rain gutter assembly. The structure of Bemis et al. must be manually operated to remove debris collected on the leaf guard.

The applied secondary prior art reference to Kuhns discloses a covering and protector for a rain gutter that prevents the gutter from becoming clogged with leaves or other debris. The covering protector is designed so that leaves and other debris which may clog the gutter can neither enter the gutter nor clog the protector. The openings in the protector which permit rain to pass into the gutter

are vertically disposed. A unitary sheet includes an extended flat portion which does not contain any apertures therein which functions as a closed top portion for covering the open top of the existing gutter and which also serves to interfit under and between existing roofing materials (such as roof shingles) to provide for secure fastening to the roof as well as to provide an uninterrupted smooth path for rainwater to travel off the roof. The top portion is connected to an apertured vertical portion containing a number of apertures each with a flap for directing rain into the rain gutter. A flange extending from the edge of the vertical portion interfits beneath or on top of the upper lip of a front wall of the existing rain gutter and serves both to close the gutter at its front wall and to provide a surface for fastening the cover to the existing rain gutter. A plurality of secondary apertures, each having a flap for directing rainwater from the flange into the rain gutter, are formed at the junction of the flange and the vertical portion. The Kuhns structure requires attachment to the gutter. Thus, the device disclosed in Kuhns is not independently supported over a gutter so as to provide a gap between the front edge of the gutter and the cover.

Independent Claim 1, as amended recites a leaf guard for directing water into a gutter while preventing debris from entering the gutter that includes an elongated sheet of material. The sheet of material has a substantially planar portion, a roof-side edge and at least a first row and an adjacent second row of elongated slits defined in the planar portion. The first and second rows of elongated slits are substantially parallel to the roof-side edge, such that each one of the elongated slits is oriented substantially perpendicular to the roof-side edge, and each slit of the first row is offset from the corresponding slit of the adjacent second row, in a direction parallel to the roof edge.

Independent Claim 15, as amended, recites a leaf guard for directing water into a gutter while preventing debris from entering the gutter. The leaf guard includes an elongated sheet of material including a substantially planar portion, a roof-side edge, and a curved nose portion. The

planar portion defining at least one row of elongated slits. Such that the elongated slits are oriented substantially perpendicular to the roof-side edge. A connection portion is adjacent the roof-side edge, and the connection portion is a bent extension of the roof-side edge. In that the bent extension of the connection portion attaches to a vertical support structure. The curved nose portion is opposite the bent extension of the connection portion; the curved nose portion arcuately extends downwardly and underneath the planar portion.

Newly presented independent Claim 21 recites a leaf guard for directing water into a gutter and preventing debris from entering the gutter. The leaf guard is capable of being retrofitted over an existing conventional gutter structure, and includes an elongated sheet of material having a substantial planar portion between first and second ends defining a forward edge and a rearward edge. The substantially planar portion also defines a plurality of elongated slits that are arranged in a plurality of rows along the planar portion between the first and second ends, and the forward and rearward edges, such that each of the plurality of rows is substantially parallel to the rearward edge of the leaf guard. Further, each one of the elongated slits is oriented substantially perpendicular to the rearward edge. In addition, each one of the elongated slits is bounded by the planar material on a first side and an opposite second side, with the first and second sides extending in a direction parallel to the first and second ends. Also, the material on the first side has an upward slope, and on the second side has a downward slope, whereby the material on each the first and the second sides of the elongated slits of each one of the rows slope in the same direction, respectively.

The applied prior art reference to Bemis et al. does not anticipate the embodiments set forth in each of the amended independent Claims 1, 15 and the newly presented independent Claim 21, as alleged by the Examiner. Applicant respectfully requests the withdrawal of the Bemis et al. reference since the reference fails to meet all of the limitations of the independent claims. Further,

the structure, as disclosed in the Bemis et al. reference as applied, requires a unitarily and integrally constructed gutter and leaf guard, as such, the reference cannot be construed as obviously satisfying the metes and bounds of the independent claims because such modifications would utterly destroy the purpose and design of the Bemis et al. device. Likewise, the reliance on the secondarily applied prior art device disclosed in Kuhns, does not remedy the deficiencies of Bemis et al., such that there is no guidance or motivation found in either Bemis et al. or Kuhns, alone or in combination, as alleged by the Examiner, that would have led one of ordinary skill in the art to arrive at the structure defined by the present independent claims. As such, the lack of any other positive teaching, aside from Applicant's own disclosure, the independent Claims 1 and 15, as presently amended, and Claim 21 (newly presented) are neither anticipated nor rendered obvious by the applied prior art of record. Applicant respectfully submits that Claims 1, 4-8, 11, 13-17, and 21-28 are allowable over the prior art of record.

Applicant has amended the claims of the instant application, and presented arguments that the present claims are distinguished over the applied prior art. Applicant respectfully submits that for at least these reasons, Claims 1, 4-8, 11, 13-17, and 21-28 are allowable over the prior art applied of record.

The claims in this application have been revised to more particularly define Applicants' unique construction in view of the prior art of record. Reconsideration of the claims in light of the present amendments and for the above reasons is respectfully requested.

Application Serial No.: 10/820,070
Art Unit: 3636

Attorney Docket No. 23345.01
Confirmation No. 7218

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Litman", with a stylized flourish at the end.

Richard C. Litman
Registration No. 30,868
(703) 486-1000

RCL:DHT:wse